

Appl. No. : 10/655,852
Filed : September 5, 2003

REMARKS

Claims 6-12 remain pending. The Examiner has rejected Claims 6-11 as obvious over Cauthen in view of Trieu, and Claim 12 as obvious over Cauthen in view of Trieu and further in view of Alleyne. Applicant respectfully submits that there is no motivation to combine the Cauthen and Trieu references to produce the claimed invention.

The applicant respectfully submits that it would not be obvious to combine the Cauthen patch and the bone morphogenetic protein of Trieu. The patch of Cauthen is used to help prevent expulsion of disk nucleus through an opening in an annulus. The implant of Trieu is a replacement for at least the disk nucleus, and sometimes the whole disk. This implant further includes a reinforcing band around its circumference to maintain its disk like shape. Thus, there is no motivation present to use the Trieu bone morphogenetic impregnated implant with the Cauthen patch.

It is respectfully submitted that Claim 6 is therefore allowable over the prior art of record. Claims 7-12 depend from Claim 6, and are allowable for at least the same reasons.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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